

# CAPITALISM AND DISABILITY

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Having a disability is conventionally regarded as a personal tragedy which the individual must overcome, or as a medical problem to which the individual must become adjusted. In 1976, however, the Union of the Physically Impaired Against Segregation in Britain made a significant advance when it pointed out that 'disability is something imposed on top of our impairments by the way we are unnecessarily isolated and excluded from full participation in society'.<sup>1</sup> Among those concerned with disability it soon became common ground that 'it is society which disables persons with impairments'.

This social model of disability<sup>2</sup> necessitates a rethinking of prevalent definitions. Leaving aside biological or physical-anthropological definitions of disability which make it appear that impaired persons are 'naturally' and, therefore, justifiably, excluded from the 'labour force', even mainstream definitions have serious shortcomings. The World Health Organization, for instance, defines impairment (the condition of being deaf or blind, or having impaired mobility or being otherwise impaired) as the physiological 'problem'; disability as restricted functions or activities resulting from an impairment; and handicap as the 'disadvantage resulting from the impairment or disability, that limits or prevents the fulfillment of a role'.<sup>3</sup> This terminology has been criticized by social model theorists of disability because it relies primarily on medical definitions and uses a bio-physiological definition of normality. Further, 'the environment' within which this 'disadvantage' is located, 'is represented as "neutral", and any negative consequences of this approach for the person with an impairment are regarded as inevitable or acceptable rather than as disabling barriers'.<sup>4</sup>

Reconceptualizing disability as an outcome of the political economy, however, also requires acknowledging the limitations of the 'minority' model of disability, which views it as the product of a disabling social and architectural

environment. In this view the fundamental source of the problems encountered by disabled persons is prejudicial or discriminatory attitudes, implying that by erasing mistaken attitudes society will accept 'difference' and equality will flourish.<sup>5</sup> This approach diverts attention from the mode of production and the concrete social relations that produce the disabling barriers, exclusion and inequalities facing disabled persons.

In contrast, we take the view that disability is a socially-created category derived from labour relations, a product of the exploitative economic structure of capitalist society: one which creates (and then oppresses) the so-called 'disabled' body as one of the conditions that allow the capitalist class to accumulate wealth. Seen in this light, disability is an aspect of the central contradiction of capitalism, and disability politics that do not accept this are, at best, fundamentally flawed strategies of reform or, worse, forms of bourgeois ideology that prevent this from being seen.

### CAPITALIST BEGINNINGS AND THE COMMODIFICATION OF THE IMPAIRED BODY

The primary oppression of disabled persons (i.e. of people who could work, in a workplace that was accommodated to their needs) is their exclusion from exploitation as wage labourers.<sup>6</sup> Studies show that disabled persons experience lower labour-force participation rates, higher unemployment rates and higher part-time employment rates than non-disabled persons.<sup>7</sup> In the US, 79% of working-age disabled adults say they would prefer to work,<sup>8</sup> yet in 2000 only 30.5% of those with a work disability between ages sixteen and sixty-four were in the labour force and only 27.6% were employed; while 82.1% of non-disabled persons in this age group were either employed (78.6%) or actively seeking work for pay.<sup>9</sup> Though having a job does not always translate into an above-poverty-level existence, disabled persons' historical exclusion from the labour force has undoubtedly contributed to their poverty. Disabled persons are nearly three times as likely to live below the current poverty line — 29% live in poverty, compared to 10% of non-disabled people.<sup>10</sup> In the USA fully one third of disabled adults live in a household with an annual income of less than \$15,000,<sup>11</sup> while the 300 to 400 million living in developing countries have even less chance of employment and exist in abject poverty, usually with no social safety nets at all.<sup>12</sup>

Historical materialism provides a theoretical base from which to explain these conditions and outcomes. Under feudalism, economic exploitation was direct and political, made possible by the feudal concentration of land ownership. While a few owners reaped the surplus, many living on their estates worked for subsistence and disabled people were able to participate in this economy to varying degrees.<sup>13</sup> Notwithstanding religious superstition about disabled people during the Middle Ages, and significant persecution of them, the rural production process that predominated prior to the Industrial Revolution permitted many disabled people to make a genuine contribution to daily economic life.<sup>14</sup>

With the advent of capitalism, people were no longer tied to the land, but they

were forced to find work that would pay a wage — or starve; and as production became industrialized people's bodies were increasingly valued for their ability to function like machines. Bosses could push non-disabled workers to produce at ever increasing rates of speed. Factory discipline, time-keeping and production norms broke with the slower, more self-determined and flexible work pattern into which many disabled people had been integrated.<sup>15</sup> As work became more rationalized, requiring precise mechanical movements of the body, repeated in quicker succession, impaired persons — the deaf or blind, and those with mobility difficulties — were seen as — and, without job accommodations to meet their impairments, were — less 'fit' to do the tasks required of factory workers, and were increasingly excluded from paid employment.<sup>16</sup> And so 'the operation of the labour market in the nineteenth century effectively depressed handicapped people of all kinds to the bottom of the market'.<sup>17</sup>

Industrial capitalism thus created not only a class of proletarians but also a new class of 'disabled' who did not conform to the standard worker's body and whose labour-power was effectively erased, excluded from paid work.<sup>18</sup> As a result, disabled persons came to be regarded as a social problem and a justification emerged for segregating them out of mainstream life and into a variety of institutions, including workhouses, asylums, prisons, colonies and special schools.<sup>19</sup> Exclusion was further rationalized by Social Darwinists, who used biology to argue that heredity — race and genes — prevailed over the class and economic issues raised by Marx and others. Just as the 'inferior' weren't meant to survive in nature, they were not meant to survive in a competitive society. Legislation, influenced by Social Darwinism and eugenics theory, was enacted in a number of jurisdictions for the involuntary sterilization of disabled people.<sup>20</sup> Advocates of eugenics such as Galton, Dugdale and Goddard propagated the myth that there was an inevitable genetic link between physical and mental impairments and crime and unemployment.<sup>21</sup> This was also linked to influential theories of racial superiority, according to which the birth of disabled children should be regarded as a threat to racial purity.<sup>22</sup> In the notorious *Buck v. Bell* decision of 1927, the US Supreme Court upheld the legality of the forced sterilization of disabled people. At the extreme, Nazi Germany determined that disabled individuals were an economic burden and exterminated tens of thousands of them.<sup>23</sup> But even in 'democratic' America bean-counting logic prevailed: by 1938, thirty-three American states had sterilization laws and between 1921 and 1964 over 63,000 disabled people were involuntarily sterilized in a pseudo-scientific effort to prevent the births of disabled offspring and save on social costs.<sup>24</sup> Whether or not codified into law, the sterilization of disabled people was common in a number of countries in the first half of the twentieth century, including Britain, Denmark, Switzerland, Sweden, and Canada.<sup>25</sup>

After World War II the expansion of the welfare state in most industrialized countries gave rise to two contradictory trends for disabled people. On the one hand, there was increased state provision of social services. On the other hand there was also a greater attempt to regulate the lives of the recipients of these

services. This was particularly the case in Britain and other European countries. The Beveridge Report in Britain symbolized this project and it clearly envisaged an 'ableist' and patriarchal system in which white male able-bodied workers were the primary breadwinners, married women worked in the home, and disabled people were defined as a medical problem and relegated to the expertise of specialists.<sup>26</sup> However, even in the USA, which adopted a relatively modest welfare state, one saw increased provision of social programs such as segregated sheltered workshops which exploited disabled workers in part by paying below minimum wages. This was a component of the 'dictatorship over needs' inherent in the bureaucratism of the welfare state which transformed people into objects of state policy called 'clients'.<sup>27</sup>

The 'medicalization' of disablement and the tools of classification clearly played an important role in establishing divisions between the 'disabled' and the 'able-bodied'. Disability became an important 'boundary' category whereby people were allocated to either a work-based or a needs-based system of distribution. In the US, disability came to be defined explicitly in relation to the labour market. For instance, in some workers' compensation statutes, a labourer's body is rated by the degree of its impairment suffered by each of its functioning parts.<sup>28</sup> In Social Security law, 'disabled' means medically unable to engage in substantial work activity.<sup>29</sup> The disability category was essential to the development of an exploitable workforce in early capitalism and remains indispensable as an instrument of the state in controlling the labour supply today.<sup>30</sup> By focusing on curing so-called abnormalities, and segregating those who could not be cured into the administrative category of 'disabled', medicine cooperated in shoving less exploitable workers out of the mainstream workforce.<sup>31</sup>

So, just as capitalism forces workers into the wage relationship, it equally forcefully coerces disabled workers out of it.<sup>32</sup> Disabled workers face inherent economic discrimination within the capitalist system, stemming from employers' expectations of encountering additional production costs when hiring or retaining a non-standard (disabled) worker as opposed to a standard (non-disabled) worker who has no need for job accommodations, interpreters, readers, environmental modifications, liability insurance, maximum health care coverage (inclusive of attendant services) or even health care coverage at all.<sup>33</sup> 'Disability' is a social creation which defines who is offered a job and who is not, and what it means varies with the level of economic activity.

This is because the root cause of the work-place discrimination experienced by disabled people is to be found in an accountant's calculation of the present cost of production versus the potential contribution the employment of a given worker will make to future profits. If 'disabilities' among the direct producers add to the cost of production without increasing the rate of profit, owners and managers will necessarily discriminate against them. Expenses to accommodate the 'disabled' in the workplace will be resisted as an addition to the fixed capital portion of constant capital. Hence the opposition of small and medium businesses, especially the US Chamber of Commerce, to the 'Americans with Disabilities

Act'. Managers and owners will only tolerate the use of 'disabled' workers when they can save on the variable portion of cost of production, e.g. by paying low wages to disabled workers,<sup>34</sup> or through tax breaks and other subsidies. So an employee who is too costly (i.e., significantly disabled) to add to net profits at the current level of output will not likely become (or remain) an employee at all.<sup>35</sup> US Census data consistently show that, as compared with the four-fifths of working-age persons with no disability who have jobs, only just over one-quarter of people with a significant disability do so.<sup>36</sup>

Employers and investors rely on the preservation of the status quo labour system which does not require them to absorb the non-standard costs of employing disabled workers under the current mode of production, let alone the 800 million people who are totally or partially unemployed worldwide. Consequently, disabled individuals who are currently not in the mainstream workforce, who are collecting disability benefits and who could work if their impairments were accommodated, are not tallied into employers' costs of doing business.<sup>37</sup> The disability benefit system thus serves as a socially legitimized means by which the capitalist class can avoid hiring or retaining non-standard workers and can 'morally' shift the cost of supporting them onto poverty-based government programs — thereby perpetuating their poverty.

Being categorized as 'disabled', however, and the subsequent impoverishment that so many face when struggling to survive on disability benefits,<sup>38</sup> serves another class function: it generates a very realistic fear among workers of becoming disabled. At base, the inadequate safety net is a product of the owning class's fear of losing full control of what they do with the means of production;<sup>39</sup> the American work ethic is a mechanism of social control that ensures capitalists a reliable work force for making profits. If workers were provided with a social safety net that adequately protected them through unemployment, sickness, disability, and old age, labour would gain a stronger position from which to negotiate their conditions of employment. American business retains its power over the working-class through a fear of destitution that would be weakened if the safety net were to actually become safe.

Disabled persons who do not offer a body which will enhance profit-making as labourers are used to shore up US capitalism by other means. Entrepreneurs and rehabilitation specialists have made impaired bodies of use to the economic order by shaping disablement into big business<sup>40</sup> and turning the disabled body into a commodity around which social policies get created or rejected according to their market value.<sup>41</sup> The corporate solution to disablement — institutionalization in a nursing home, for instance — evolved from the realization that disabled people could be made to serve profit because public financing guaranteed the revenue (in the USA, Medicaid funds 60% of the cost, Medicare 15%, private insurance 25%). Disabled people are worth more to the Gross Domestic Product when occupying a 'bed' than a home. When a single impaired body can generate \$30,000 — \$82,000 in annual revenues Wall Street counts it as an asset that contributes to companies' net worth. Despite the efforts of the disability

rights movement to de-institutionalize disabled populations and shift policy towards the provision of in-home services, the logic of capital reasserts itself via the recommodification of the disabled body in the home (insofar as public funding permits — with the advent of ‘managed care’, trying to limit costs, there is an increased financial motive to underserve). Corporations have taken an interest in the money-making potential of the in-home services field, and indeed promote the in-home services model as they build their new ‘home-care’ empires. As Jim Charlton puts it, ‘the transformation of people into commodities hides their dehumanization and exploitation by other human beings: it becomes simply an economic fact of life’.<sup>42</sup>

It is also evident that the definition of disability is not static but fundamentally linked to the needs of capital accumulation. Hence, when the welfare state entered into ‘crisis’, governments attempted to narrow the definition of disablement and to cut entitlement levels. There have also been widespread closures of the institutions that warehoused disabled people, but without an allocation of adequate resources and services to enable them to live independently. Yet this withdrawal of the state from certain types of benefits does not entail any rupture in the intervention of the state in the lives of disabled people. The state’s interventionist role remains but is refocused on the ruthless cutting of social expenditures, including services and income support programmes to disabled people, in the name of neoliberal efficiency.<sup>43</sup>

The rise of capitalism has thus seen dramatic changes in the ideological classification and treatment of disabled people. Yet while socialists have considered the relationship between the rise of capitalism and, for instance, the enactment of the English Poor Laws,<sup>44</sup> the classification, marginalization and oppression of disabled people have been largely ignored. Speaking generally, the rise of capitalism clearly had contradictory outcomes for disabled people. On the one hand, there were positive effects in terms of better medical technology that lengthened the life span and increased the quality of life for those who could afford it. On the other hand there were some very negative effects, including classification into rigid and arbitrary diagnostic categories and incarceration in oppressive institutions. Exclusion from exploitation in the wage-labour system, as the ‘deserving poor’, lies at the core of disabled peoples’ oppression in every aspect of modern life.

### DISABILITY RIGHTS MOVEMENTS: PROSPECTS AND LIMITATIONS

While new social movements fighting against racism, patriarchy and homophobia were gaining prominence in many Western countries in the 1960s,<sup>45</sup> movements of disabled people, with more or less coherent programmes and ideologies, also slowly emerged. Unlike other social movements, the various disability rights movements<sup>46</sup> to date have received relatively little attention from socialists, union activists or academics, even in the USA, which arguably has one of the strongest and oldest disability rights movements.<sup>47</sup> Yet an examination of their various trajectories suggests useful insights that those seeking to challenge

capitalism in other struggles can learn from and incorporate in them. To the extent that widespread accommodation to the needs of disabled workers would necessarily transform the workplace and challenge expectations of ever increasing productivity rates, the disability rights movement can be seen as radically democratic and counter-hegemonic in potential and scope.

An important analytical distinction must be made between charitable organizations established for disabled people, sometimes by parents of disabled children, and organizations directly controlled by disabled people. In the former category, the organizations, usually based on a diagnostic category linked to impairment, do not necessarily reflect the views and experiences of disabled people themselves, notwithstanding that they may do occasional work that is beneficial. In fact, the implicit ideological agenda of these paternalistic organizations is that disabled people are unable to advocate on their own behalf.<sup>48</sup> Moreover, the fact that their mandate rests on usually arbitrary diagnostic categories places unwarranted emphasis on medical issues and not enough on the barriers imposed by the physical environment and the class system. The resulting fragmentation — splintering disabled people into literally hundreds of different categories — also works to make cross-disability solidarity that much more difficult. Just as importantly, these organizations, like NGOs in other sectors, are often directly tied to the state through funding arrangements. Consequently, they are extremely limited in their ability to criticize government policy, even if they were so inclined, for fear of losing funding and access to decision-makers. In fact, organizations run *for* disabled people dramatically outnumber those controlled *by* disabled people, and receive far more generous funding.<sup>49</sup> The severe limitations of their politics should come as no surprise, given the questionable and co-opted record of NGOs in all contexts.

In sharp contrast, organizations run by disabled people have at least the potential for more radical politics. In the late 1960s, the Independent Living (IL) movement emerged in Berkeley, California, spearheaded by a disabled students' group known as The Rolling Quads. It sought to promote the empowerment of disabled people and focused attention on the structural barriers imposed by the built environment, not on the impairments of individuals. The first Independent Living Centre (ILC), based on the social-political model of disablement, was founded in Berkeley and sought to broaden struggles for empowerment to include students and non-students alike. Within a few years, a network of hundreds of ILCs had sprouted across the United States, as well as a number of other countries including Britain, Canada and Brazil.<sup>50</sup>

The emergence of the IL movement was unquestionably a step forward for the disability rights movement. The shared sense of consciousness fostered by collective action is an important first step in the building of any social movement. By redefining as political issues requiring redress by society at large what had been previously regarded by most people as private troubles (just as the women's movement had done), the IL movement provided a basis for a vital social movement;<sup>51</sup> and the vitality of the women's movement, the Black civil rights

movement, the gay and lesbian movement, the Chicano movement and other new social justice movements created an opening in which the case for eradicating disability oppression could also get a hearing.

Nevertheless, there were and are serious contradictions in the IL philosophy. On the one hand, it seeks to promote autonomy and self-determination for disabled people. On the other, it implicitly accepts the foundations of free market ideology by framing the debate in terms of the right of disabled people as consumers to receive equal treatment from the marketplace. The ability to access the marketplace is cold comfort to the huge proportion of disabled people living in poverty or near-poverty conditions. In a capitalist society, after all, access to the marketplace is predicated on having the purchasing power to buy the services in question. A strategy of disability liberation politics entirely dependent on that purchasing power is so impoverished as to be of assistance to only a tiny fraction of the most privileged disabled people. It also tends to marginalize the concerns of women and minorities. By accepting free market principles as a given the IL movement undermined its radical potential to truly empower disabled people. In the worst cases, some IL centres, afraid of rocking the boat and losing state funding, have become little more than venues for peer counselling and organizing picnics. Only by questioning the very basis of the rules of the market can there be liberation for disabled people.

Yet there have always been some strands of the disability rights movement that have resisted the dangers of state co-optation and engaged in militant, in-your-face tactics that demonstrate the possibility for resistance and broader social change. For example, decades before the emergence of the IL movement, the League for the Physically Handicapped, a group of some three hundred disabled pensioners in New York, engaged in civil disobedience during the Great Depression to protest their discriminatory rejection from the employment offered by the Works Progress Administration.<sup>52</sup> Much later, in 1970, an organization called Disabled in Action (DIA) was founded and adopted the tactic of direct political protest. During the 1972 Presidential Election DIA militants joined with disabled and often highly politicized Vietnam veterans, clearly an influential base of support, to demand an on-camera debate with President Nixon. They also organized a demonstration at the Lincoln Memorial after President Nixon vetoed a spending bill to fund disability programs.<sup>53</sup>

Perhaps the most memorable moment in recent disability rights history in the USA came during the struggle in 1977 to have the regulations pursuant to section 504 of the Rehabilitation Act of 1973 issued. The regulations were to outline how it was illegal for federal agencies, contractors, or public universities to discriminate on the basis of disability. They had been delayed by previous Administrations but there was an expectation that the new Carter Administration would fulfill its promise to issue the regulations. When it became obvious that policy-makers were stalling and wanted to substantially modify the regulations, so as to permit continued segregation in education and other areas of public life, disability rights activists mobilized in a number of cities across the USA. While



most demonstrations ended fairly quickly, in Berkeley the movement took on a truly extraordinary trajectory. There, disability rights activists occupied the Department of Health, Education and Welfare (HEW) federal building for some twenty-five days, culminating in total victory: the issuing of the regulations without any amendments.<sup>54</sup>

In the process, the participants in the occupation found themselves transformed by the experience. They discovered their ability to change the world through political action. Whereas divisions along arbitrary diagnostic categories based on a flawed medical-model approach to disablement have often created serious tensions in building social movements, in this instance people with different impairments were able to unite around a common strategy and build solidarity in what was clearly a key turning-point. Links were also forged with other social movements. For instance, unions and civil rights organizations donated food for the demonstrators and it was prepared by the local branch of the militant Black Panthers Party. It is clear, however, that the HEW protests built on the legacy left by the pioneering work of the IL movement, notwithstanding its structural and ideological limitations.

In both the USA and Britain a small cadre of militant disability rights activists have continued a tradition of struggle from below. In 1983 a new organization, the American Disabled for Accessible Public Transit (ADAPT), was established by disability rights activists in several important cities in the USA to highlight the inaccessibility of public transport for people with mobility impairments. It quickly became known for its confrontational and often successful tactics. For instance, it repeatedly disrupted the conventions of the American Public Transit Association, leading to mass arrests, in protest against their unwillingness to implement modifications to make public transport more accessible. They also demonstrated a dramatic flair when they engaged in symbolic forms of protest, like crawling up the numerous stairs at the entrances of public buildings to highlight their inaccessibility.<sup>55</sup> It is hardly surprising that more moderate disability organizations have largely shunned or even attacked ADAPT; a coalition of IL centres in Michigan went so far as to condemn its actions in a letter to the state's governor.<sup>56</sup> More recently ADAPT has switched its priorities to securing better funding for a national attendant services program that would permit disabled people to live in the community as opposed to being institutionalized.

Yet, ultimately, even the most grassroots disability organizations in both the USA and Britain appear theoretically ambiguous in their ideological formulations. They have yet to adopt an anti-capitalist agenda that sees disablement as a product of the class system. Moreover, in both the USA and Britain the passage of disability rights legislation, which is individualistic at base, removes an element of coherence from the political praxis of even the most militant disability rights organizations. A failure to see their common links with other marginalized members of society, including the reserve army of the unemployed, welfare recipients, the increasingly large segment of society working in part-time jobs or in jobs that do not pay a living wage, and others, may result in the squandering

of the promise of the various disability rights movements on the shoals of identity politics — or, worse, on postmodern discourse whose theorists refuse to name capitalism as a cause for their oppression. A turn to class politics and historical materialism, fully cognizant of its risks and limitations, is what the disability rights movements need most.

### THE CIVIL RIGHTS IMPASSE

Though it might seem contradictory that a US Republican President (representing the GOP which is, after all, the reactionary voice of capital) signed the Americans with Disabilities Act of 1990 (ADA) into law,<sup>57</sup> the goals of the ADA are completely in line with neoliberal and Third Way politics which emphasize ending dependency and increasing productivity. There has been a convergence of neoliberal and Third Way discourses, resulting in the mantra that ‘rights entail responsibilities’. Both discourses adopt the supply-side theory that the economy is burdened by rigid labour markets and overly-generous welfare provisions. In this spirit former President Clinton declared that the ‘era of big government is over’ and called for ‘more empowerment, less entitlement’. There is keen government interest in policies that will shift the long-term unemployed and disadvantaged into employment.

These politics are underscored in the ADA legislation itself. Congress specified three major goals when it enacted the ADA: eliminating arbitrary barriers faced by disabled persons, ending inequality of opportunity, and reducing unnecessary dependency and unrealized productivity. The ADA promotes the inclusion of disabled persons in the majority workforce through the establishment of constitutional law and regulations which are geared to creating ‘equal opportunity’ in the labour market for disabled job applicants by ‘leveling the playing field’ and requiring employers to accommodate impairments on the job, unless to do so would cause an ‘undue hardship’ for the business<sup>58</sup> — which makes the ‘entitlement’ to accommodation no entitlement at all. In other words, disabled people’s quasi-civil rights would be tolerated by the anti-government and anti-regulatory GOP as long as the ADA cost the federal government next to nothing, was largely voluntary for business (no quotas, no affirmative action), and promised to get people off state-funded entitlements.<sup>59</sup>

Though disability civil rights are relatively new in Britain, Prime Minister Tony Blair has gone even further. ‘New policies to offer unemployed people jobs and training are a social democratic priority — but we also expect everyone to take up the opportunity offered’, says Blair. These remarks were soon followed by a notice from officials telling disabled persons to seek work or lose benefits. *The Independent* reported that ‘[s]ick and disabled people who refuse to look for work will face the withdrawal of their state benefits under a tough new government drive to slash “welfare dependency.”’<sup>60</sup> The disability unemployment issue is increasingly defined in both the USA and in Britain as one of dependency which the faulty individual on welfare must overcome, not as the structural outcome of an exclusionary market.

It is no surprise that the neoliberal plan has not worked in the USA. In 2000, ten years after passage of the ADA, despite a growing US economy and a low aggregate national official unemployment rate of 4.2%, the unemployment rate for working-age disabled population has barely budged from its chronic level of 65–71%.<sup>61</sup> According to a recent study, while many Americans reaped higher incomes from an economy that created a record number of new jobs during seven years of continuous economic growth (1992–98), the employment rates of disabled men and women continued to fall so that by 1998 they were still below the 1992 level.<sup>62</sup> Civil rights laws have not produced the gains in employment levels, wage rates, or employment opportunities for disabled people that their advocates expected.<sup>63</sup> Census data confirm that there has been no improvement in the economic well-being of disabled persons since the passage of the ADA. In 1989, 28.9% of working-age adults with disabilities lived in poverty; in 1994, the figure had climbed very slightly to 30.0%.<sup>64</sup> Some scholars suggest that the law is ‘a compromise that is failing’<sup>65</sup> and is ‘least likely to help those workers with disabilities who are most disadvantaged in the labor market’.<sup>66</sup>

Other studies echo these findings. In a 1998 report on the performance of the Equal Employment Opportunity Commission (which enforces employment discrimination laws) the US Civil Rights Commission concluded that enforcement of the ADA has fallen short. Businesses have resisted hiring and retaining workers with disabilities by vigorously fighting ADA discrimination cases in the courts. A 1998 study by the American Bar Association’s Commission on Mental and Physical Disability Law shows that disabled workers bringing discrimination suits are unlikely to succeed in court. Of the more than 1,200 cases filed under Title I of the ADA from 1992–98, employers prevailed 92% of the time. By 2000, employers were prevailing more than 95% of the time.<sup>67</sup> Ohio State Law Professor Ruth Colker concludes that ‘only prisoner rights cases fare as poorly’.<sup>68</sup>

In 2001, during his first hundred days, President-Select George W. Bush (whose father-president had signed the ADA) declared that ‘too many Americans with disabilities remain trapped in bureaucracies of dependence’.<sup>69</sup> This exemplifies the key contradiction that disablement now represents: the ruling class would like to cut state spending on keeping disabled people out of work, but redistributionist laws like the ADA are necessarily in tension with business class interests, which resist such cost-shifting. Representatives of small and medium businesses (GOP supporters), such as the US Chamber of Commerce, the National Association of Manufacturers, the American Banking Association, and the National Federation of Independent Business, were all opposed to the ADA. Supply-side economist Paul Craig Roberts warned on the day the Act was signed that it would ‘add enormous costs to businesses that will cut into their profits’.<sup>70</sup> A leading economist in the Law and Economics movement, Richard Epstein, states that the employment provisions of the ADA are a ‘disguised subsidy’ and that ‘successful enforcement under the guise of “reasonable accommodation” necessarily impedes the operation and efficiency of firms’.<sup>71</sup>

Writing for the 7th Circuit in 1995, Judge Richard Posner, a self-appointed protector of the interests of business, applied cost/benefit analysis to the ADA:

If the nation's employers have potentially unlimited financial obligations to 43 million disabled persons, the Americans with Disabilities Act will have imposed an indirect tax potentially greater than the national debt. We do not find an intention to bring about such a radical result in either the language of the Act or its history. The preamble actually 'markets' the Act as a cost saver, pointing to 'billions of dollars in unnecessary expenses resulting from dependency and nonproductivity'. The savings will be illusory if employers are required to expend many more billions in accommodation than will be saved by enabling disabled people to work.<sup>72</sup>

The cost-benefit view (whether real or perceived) of the business class at large runs up against their political representatives' expectations in sponsoring the ADA. Those who believe that liberal civil rights are the solution to the unemployment predicament of disabled people confront the problem that within capitalism equal treatment is in contradiction with macro-economic realities. Unemployment is a permanent feature of any capitalist economy. Civil rights, though still necessary to counter individual acts of prejudice and discrimination, have only the power (if enforced) to randomly distribute the maladies of unemployment, income and wage inequality throughout the population,<sup>73</sup> not to meet everyone's material needs. Is there social justice in promoting bourgeois liberal remedies that may liberate some but not all disabled persons from oppression? Liberal anti-discrimination laws cannot end systemic unemployment and individual rights cannot override the economic structure. Neither the market nor civil rights laws can end the exclusion of disabled people from the labour force. Business has obtained both the legal and political legitimacy necessary to discriminate and exclude millions from the workforce in the name of work-place and market efficiency.<sup>74</sup> Transforming this reality, not the (unachievable) accommodation of disabilities under a liberal 'rights' model, must clearly be a goal of any socialist praxis worthy of its name.

#### AFTERWORD: BEYOND WORK

So how, then, can disability politics help to end capitalist exploitation? While to address this question fully is beyond the scope of this paper we will offer some food for thought. Oliver, for instance, suggests 'if the game is possessive individualism in a competitive and inequalitarian society, impaired people will inevitably be disadvantaged, no matter how the rules are changed'.<sup>75</sup> Finkelstein recognizes that a society may be willing to absorb a portion of its impaired population into the workforce, yet this can have the effect of maintaining and perhaps intensifying the exclusion of the remainder.<sup>76</sup> Indeed, former US President Clinton suggested that bringing disabled persons into the workforce could be a tool to fight inflation in a tight labour market.<sup>77</sup> Abberley suggests that we abandon the notion that production be at the centre of any new conceptualiza-

tion of Utopia: 'even in a society which did make profound and genuine attempts to integrate impaired people into the world of work, some would still be excluded by their impairment'.<sup>78</sup>

But need the ability to labour in some socially recognized sense be a requirement for full membership in society? In a work-based society, productivism is the 'normal' activity. A radical disability perspective could offer great liberatory potential by proposing to abolish this notion and to offer counter-values to those of productivism. Is work the defining quality of our worth? Employability, aptitude for earning money and even work chosen during one's free time are not, a priori, the measure of what it means to live, to be part of the human race. Moreover, a counter-hegemonic praxis of disability politics, challenging productivism, opens the door to alliances with many other groups who are also marginalized by the imprisoning dictates of a market economy. These include single mothers, welfare recipients, part-time workers, parts of the incarcerated population, and all those unable for various reasons to earn a living wage. Indeed, the fostering of grassroots solidarity amongst those oppressed by productionism can only serve to enrich the disability rights movements themselves and enhance the chances of achieving reformist goals of physical and structural access while pursuing a longer term agenda of economic transformation. After all, what is the alternative? Eugenics, sterilization, euthanasia and the institutionalization of the impaired and others have all been productivist societies' answers to what to do with the 'unproductive'. If the goal of social justice is to ensure the dignity of each and every person, then buying into the largely capitalist-induced belief that work equates with self esteem or is a condition for membership of the human race — that people are labourers first and human beings second — only serves to oppress us all.

## NOTES

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- 2 Michael Oliver coined the phrase. See his *Politics of Disablement*, New York: St. Martin's Press 1990.
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